

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF HEALTH



*Safe and Healthy Lives in Safe and Healthy Communities*

STATE OF RHODE ISLAND AND  
PROVIDENCE PLANTATIONS,  
DEPARTMENT OF HEALTH,  
BOARD OF MEDICAL LICENSURE  
AND DISCIPLINE.

No. C98-094  
C98-154

In the matter of  
Philip J. Opalenski, M.D.

CONSENT ORDER

Pursuant to R.I. Gen. Laws § 5-37-5.2, 1956, as amended,  
(1995 Reenactment) two complaints were filed with the Board of  
Medical Licensure and Discipline (hereinafter referred as to  
"Board") charging Philip J. Opalenski, M.D., Respondent, with  
violations of §5-37-5.1(10) and 5-37-5.1(23). An  
investigation was conducted by Investigating Committee III, so  
called, of the Board.

The following constitutes the Investigating Committee's  
Findings of Fact with respect to the professional performance  
of the Respondent.

Findings of Fact

1. A patient under the care of the Respondent for over  
11 years with an established diagnosis of Crohn's disease for  
over 35 years, complicated by an ileostomy, recurrent  
resections of portions of the bowel, recurrent draining  
fistulae decided to stop working and file for disability. He

submitted forms requesting the Respondent to provide the necessary medical records, for "short-term" and "long-term" disability. The Respondent failed to provide the properly requested records to the patient, his subsequently identified gastroenterologist, or the insurance company for several months despite repeated efforts by the complainant. The Respondent also failed to respond to multiple requests by the Board of Medical Licensure and Discipline over a 4-month period.

2. The Respondent, a gastroenterologist, with offices in Cranston and Cumberland, saw a patient for evaluation of gastric distress which included diarrhea. The patient requested copies of her records in order to comply with a Life Insurance Company's requirement that the records be provided in order to evaluate the merits of an insurance claim. The Respondent failed to provide the records to her internist, as requested by the patient. When the Board of Medical Licensure and Discipline sought to investigate the matter, the Respondent failed to respond to multiple requests by the Board over a period of five months.

3. The Respondent is guilty of violating 5-37-5.1(10) and 5-37-5.1.(23) for failing to furnish the details of a patient's records to a succeeding physician and failing to furnish to the Board of Medical Licensure and Discipline information legally requested.

The parties agree as follows:

(1) The Respondent is a physician licensed and doing business under and by virtue of the Laws of the State of Rhode Island, allopathic license No. MD5679.

(2) Respondent admits to the jurisdiction of the Board and hereby agrees to remain under the jurisdiction of the Board.

(3) Respondent has read this Consent Order and understands that it is a proposal of Investigating Committee III of the Board and is subject to the final approval of the Board. This Consent Order is not binding on Respondent until final ratification by the Board.

(4) Respondent hereby acknowledges and waives:

- a. The right to appear personally or by counsel or both before the Board;
- b. The right to produce witnesses and evidence in his behalf at a hearing;
- c. The right to cross examine witnesses;
- d. The right to have subpoenas issued by the Board;
- e. The right to further procedural steps except for specifically contained herein;
- f. Any and all rights of appeal of this Consent Order;
- g. Any objection to the fact that this Consent Order will be presented to the Board for consideration and review;

h. Any objection to the fact that it will be necessary for the Board to become acquainted with all evidence pertaining to this matter in order to review adequately this Consent Order;

i. Any objection to the fact that potential bias against the Respondent may occur as a result of the presentation of this Consent Order.

(5) If the Consent Order is not accepted by the Respondent, the Investigative Committee will recommend to the Board that an Administrative Hearing be scheduled with respect to any and all acts of alleged unprofessional conduct. If the Board approves, a Hearing Committee will be convened for the purpose of conducting the Administrative Hearing. The composition of the Hearing Committee votes in favor or finding the Respondent guilty of unprofessional conduct as specified in the charges, the Board shall prepare written finding of fact and law in support of said conclusion. If the accused is found not guilty, the Board shall, forthwith, issue an order dismissing the charges.

(6) Acceptance of this Consent Order constitutes an admission by the Respondent of the facts set forth herein.

(7) This Consent Order shall become part of the public record of this proceeding once it is accepted by all parties and by the Board.

(8) Failure to comply with this Consent Order, when signed and accepted, shall subject the Respondent to further disciplinary action.


(9) The Respondent accepts the Board's finding of unprofessional conduct with a sanction of a Reprimand. Further, Respondent agrees to attend and successfully complete a course at ProBe, Problem Based Ethics, in New Jersey. The Respondent shall be required to pay an Administrative Fee of Two Hundred and Fifty (\$250.00) Dollars within 60 days of ratification of this Order.

Signed this  
1999.

5<sup>th</sup> day of FEBRUARY ,

  
Philip V. Opalenski, M.D.

Ratified by the Board of Medical Licensure and Discipline  
at a meeting held on February 10, 1999.

  
Patricia A. Nolan, MD, MPH  
Chairperson  
Board of Medical Licensure  
and Discipline